

III. REMARKS

1. Claims 12-14 are rejected under 35 U.S.C. §101 as not being directed to statutory subject matter. This rejection is respectfully traversed. In the United States, the statutory categories of subject matter include process, machine, manufacture and composition of matter. Subject matter may not be patented under 35 U.S.C. §101 if it falls into one the express exclusions, which include laws of nature, natural phenomena and abstract ideas. Claim 12 recites a software copyright information managing **"system"** for managing software copyright data in a multiple platform electronic architecture. The system includes a **"system controller"** for collecting the software copyright data from multiple platforms and a **"user interface"** connected to the system controller for displaying the software copyright data from **the "memory"** to a user. A **"controller"** is a physical article. A **"user interface"** is a physical article. A **"memory"** is a physical article. While the claim recites that the memory has a specific function, this cannot lead to the conclusion that the claim is directed to nonfunctional descriptive material. The claim clearly recites the combination of these three articles, and how they are interconnected. At the very least these claimed features can be considered "articles of manufacture", and clearly fall within the plain meaning of statutory subject matter defined by 35 U.S.C. §101.

Interestingly, the Examiner even concludes and states that the claim language is directed to statutory subject matter. The Examiner states that the claims are "at best, functional descriptive material *per se*." (page 2 of Office Action). The Examiner then goes on the state or cite that when **"functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory."** Thus, clearly, even in light of the Examiner interpretation of the law, the claim is obviously and clearly directed to statutory subject matter.

Claim 13 recites a “memory” for storing. A “memory” can certainly be considered an article of manufacture within the meaning of 35 U.S.C. §101.

Claim 14 recites a specific type of memory for storing certain types of data. Again, the type of memory is within the meaning of 35 U.S.C. §101 and cannot be considered non-statutory.

Therefore, it is respectfully submitted that claims 12-14 are directed to statutory subject matter and do not fall into any of the exclusions encompassed by 35 U.S.C. §101.

2. Claims 1-21 are not unpatentable over Nakagawa et al. (“Nakagawa”) (U.S. Publication No. 2003/0159065 A1) in view of “Strategy for collecting Software Inventory Information Across a Local Area Network.” (the IBM Disclosure”) and in view of Schwarz, Jr. (U.S. Patent No. 6,476,927) (“Schwarz”) under 35 U.S.C. §103(a).

Applicant has previously discussed the deficiencies related to the proposed combination of Nakagawa and the IBM Disclosure, which arguments are incorporated herein by reference again in their entirety. The proposed combination of Schwarz with Nakagawa and the IBM disclosure does not overcome the noted deficiencies.

The Examiner states that Schwarz may be relied upon because Schwarz teaches using a central server connected to several client and every client will have their processor and software to print. For this reason the Examiner concludes that Schwarz is analogous [to] the claims.

Applicant respectfully submits that this conclusion is incorrect. Applicant’s claimed invention is directed to “managing attribute data” in a “multiple platform architecture”. As recited in claim 1, attribute data is collected, copyright data is recognized and the copyright data is processed. However, Schwarz is directed to determining and selecting an appropriate printer for a print job. This is not directed toward Applicant’s claimed invention and is not analogous to the claims. It is also noted that Schwarz, Col. 6, lines 42-46, referred to by the Examiner in support of this conclusion, merely states that in

the system 10, the print jobs 17 are not transferred through the print server 14. This allows the print server 14 to be used for a large number of clients 12 and printers 20. This is not the same as, or similar to what is being claimed by Applicant.

Thus, once again, Applicant respectfully submits that there is no motivation as required under 35 U.S.C. §103(a) to combine Schwarz with Nakagawa and the IBM Disclosure. In formulating a rejection under 35 U.S.C. §103(a) based upon a combination of prior art elements, "it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed." (quoting from USPTO memorandum dated May 3, 2007 on the Supreme Court decision on KSR Int'l Co., v. Teleflex, Inc.) The Examiner states that it would have been obvious to combine the references because "Schwarz's teaching would have allowed Nakagawa's method to minimize network loads, while providing central printer control." However, it is respectfully submitted that this reason to combine references does not have any similarity or relationship to the subject matter to which Applicant's claims are directed. Applicant's claims are directed to "managing attribute data" in a "multiple platform architecture by "polling" platforms for attribute data, collecting the attribute data and displaying the collected attribute data on a user display. Schwarz is directed to sending a job ticket from a client to a print server. The print server determines a printer for the job and sends a "token" back to the client that includes the network address and name of the printer. The client can then send the print job directly to the assigned printer. (Abstract, lines 1-8). Nothing in this is similar to "polling" platforms for attribute data, "collecting" the attribute data and "displaying" the collected data on a user display as claimed by Applicant. Thus, the conclusion by the Examiner that Schwarz uses a central server connected to clients where clients have processors so they can print is not pertinent to the problem addressed by Applicant, which is the collection of attribute data, and does not and cannot serve as "motivation" for purposes of 35 U.S.C. §103(a). Thus, Schwarz is not analogous art and cannot be combined with Nakagawa and the IBM Disclosure for purposes of 35 U.S.C. §103(a).

Furthermore, Nakagawa is a copyright inspection apparatus while the IBM Disclosure relates to software inventory collection. It is respectfully submitted that there is no reason why one would look from a copyright inspection apparatus (Nakagawa) and a software inventory collection method (IBM Disclosure) to a system that selects a printer for a client as in Schwarz, in order to achieve the invention claimed by Applicant. Providing "central printer control" is not such motivation with respect to the invention claimed by Applicant. Thus, it is respectfully submitted that there is no legal motivation to combine the references as required for purposes of 35 U.S.C. 103(a).

Additionally, the combination of Schwarz with Nakagawa and the IBM Disclosure does disclose or suggest each feature of Applicant's claimed invention. Claim 1 recites collecting attribute data including copyright data pertaining to software from multiple platforms. Schwarz merely discloses polling available printer devices for availability and current work load. (Col. 6, lines 1-3). There is no disclosure of **"collecting"** attribute data including copyright data pertaining to software from multiple platforms. Thus, at least this feature claimed by Applicant is not disclosed or suggested.

Claim 1 also recites a user interface connected to the system manager for displaying the collected attribute data in the list of copyright data to a user. There is no such disclosure by Schwarz. Schwarz merely references a user interface for the "distribution of information to a receiver on a network." (Col. 3, lines 19-21). This is not the same as what is claimed by Applicant. Thus, the combination of Schwarz with Nakagawa and the IBM Disclosure cannot disclose or suggest the claimed feature.

Thus, the features of claim 1 cannot be and are not disclosed or suggested by the proposed combination of Nakagawa, the IBM Disclosure and Schwartz. The features of independent claims 3 and 12 are similarly not disclosed or suggested. The dependent claims should be allowable at least by reasons of their respective dependencies.

Claim 2 recites that the system manager comprises memory for "storing" attribute data "collected" by the system manager. The combination of Nakagawa, the IBM Disclosure

and Schwartz does not disclose or suggest collecting attribute data or storing the collected attribute data.

Claim 3 recites a method for managing attribute data in a multiple platform architecture. The method includes polling at least two platforms for attribute data; collecting the attribute data from the at least two platforms in response to the step of polling; and displaying the collected attribute data on a user display. The combination of Nakagawa, the IBM Disclosure and Schwartz does not disclose or suggest these claimed features. Schwarz does not disclose polling and collecting attribute data, and then displaying the collected attribute data. In Schwartz, the server 14 determines that a printer is available. (Col. 5, line 67-Col. 6, line 1. The server 14 can then send a token to the requesting client. (Col. 6, lines 3-5). There is no disclosure in Schwartz related to collecting and storing attribute information as claimed by Applicant. Schwartz merely polls available print devices and determines if there is a compatible device online. This is not what is claimed by Applicant. The combination of Schwartz with Nakagawa and the IBM Disclosure does not overcome the above noted deficiencies.

First, as noted above, Schwartz cannot be combined with Nakagawa and the IBM Disclosure for purposes of 35 U.S.C. §103(a). Nakagawa does not disclose or suggest managing attribute data in a "multiple **platform** architecture." Rather, Nakagawa teaches inspecting the copyright of digital data provided on a network using a hyperlink for setting a reference path (see e.g. Abstract). What Nakagawa is doing is carrying out the inspection of a copyright with respect to a "plurality of **HTML documents**." [0050]. An **HTML document** is **NOT** a "**platform**" that has its own processor and software, as is described and claimed by Applicant. For example, referring to page 4, lines 5-14 of Applicant's specification, examples of the types of systems that Applicant's management system is generally intended to be used for are described (the examples include managing software copyright information and other software attribute data in document processing apparatus such as e.g. a copier, a facsimile machine, a computer printer, a scanner, or a multifunction device).

Additionally, it certainly cannot be said that “multiple URLs” are the equivalent of the “multiple platforms” described and claimed by Applicant. Nakagawa is merely extracting and comparing an “image” (digital data) that comprises the “copyright information” for an “original image” (see FIG. 4 and paragraph [0048].) This is done to verify whether the “image is one for which one holds the copyright”. [0048]. Nakagawa is merely verifying that an “original image”, for which a copyright is held, is not altered. Nakagawa is not verifying the copyright for software on a platform as recited in Applicant’s claims. Thus, contrary to the Examiner’s argument, the “multiple URLs” of Nakagawa are not the equivalent of the “multiple platforms” described and claimed by Applicant.

Claim 3 further recites “**polling**” the at least “two” platforms for attribute data. Nakagawa does not, either explicitly or inherently, teach such a concept.

“Polling” is generally used to refer to making continuous requests for data from another device. One definition of “polling”, a copy of which is attached hereto under the Evidence Appendix, recites that “in a master/slave scenario, the master queries each slave device in turn as to whether it has any data to transmit. If the slave answers yes then the device is permitted to transmit its data. If the slave answers no then the master moves on and polls the next slave device. The process is repeated continuously.” (www.webopedia.com/TERM/p/polling.html, definition No. 1). Polling can also involve making “continuous requests for data from another device. For example, modems that support polling can call another system and request data.” (www.webopedia.com/TERM/p/polling.html, definition No. 2). Nakagawa does not provide any such teaching or disclosure.

FIG. 1 of Nakagawa only shows a relationship between a client (20) and a www server (10). Nakagawa does not teach any type of “polling”. Paragraph [0050] of Nakagawa states that the automatic inspection of copyright is carried out with respect to a “plurality of HTML documents.” A “plurality” of “documents” is certainly not the same

as, and does not at all imply or relate to, the “concept” of “polling” at least one “platform”.

Paragraph [0050] of Nakagawa merely states that the browser (22) provides an operating environment for a user carrying out “operation of the HTML document.” This, in essence, means opening the **web page**. As will be understood by one of skill in the art, when one opens a web page, one is carrying out the operation of the underlying HTML document. For example, in Nakagawa, FIG. 3 is an example of the diagram of a home page (Internet page) that represents or is displayed by the HTML document shown in FIG. 2 [0047 & 0050]. The display of a **web page** is not the same as “polling” at least one “**platform**” for attribute data as is recited in Applicant’s claims.

Claim 3 of Applicant’s claims also recites “displaying the collected attribute data on a user display”. There is absolutely no disclosure in Nakagawa related to “displaying” collected attribute data related to the “HTML document” on a display.

Paragraph [0050] of Nakagawa merely states that the browser (22) allows the user to carry out “operation of the HTML document.” With reference to FIG. 3, this essentially means carrying out “displaying” the home page and the information and links contained therein. There is no disclosure in Nakagawa that any “copyright data” is displayed. FIG. 3 is the illustration of a single home page. There is no copyright data displayed in FIG. 3. It is not the “operation” of the home page referred to in FIG. 3 of Nakagawa to display “copyright data.” In fact, there is simply no disclosure in Nakagawa related to displaying the copyright data. Rather, Nakagawa only speaks to “inspection” of the copyright with respect to “HTML documents.” The “inspection” does not include any “display” of the copyright data. (See e.g. [0054-0059]).

It is also noted that Nakagawa relies on an attribute “inspection” process. For example, the “taken out copyright information and the copyright information to be inspected” are compared. [0069]. Nakagawa does not process attribute or copyright data into a “list” as is claimed by Applicant and Nakagawa certainly does not discuss displaying the

attribute or copyright data as is claimed by Applicant. Rather, the "URL" for the digital data being the object of inspection is output to the output device. [0073]. This is not the same as the attribute or copyright data claimed by Applicant.

Nakagawa only "reads" and "matches" attribute data of the HTML document (see FIG. 8). FIG. 3 is the illustration of the home page of the HTML document of FIG. 2. There is no copyright data displayed in FIG. 3. It is not the "operation" of the home page referred to in FIG. 3 of Nakagawa to display attribute or copyright data. In fact, there is simply no disclosure in Nakagawa related to displaying the attribute or copyright data. Rather, Nakagawa only speaks to "inspection" of the copyright with respect to "HTML documents." The "inspection" does not include any "display" of the attribute or copyright data. (See e.g. [0054-0059]. Nakagawa does not, and discloses no reason to, collect or display attribute data as is claimed by Applicant.

It is respectfully submitted that the features recited by Applicant in the claims are not being taught by Nakagawa. The Examiner has not shown how an "HTML document" equates to a "platform" as recited and claimed by Applicant, or how Nakagawa collects attribute data and displays the attribute data, let alone copyright data.

As noted previously, with respect to claim 3, Nakagawa does not disclose or suggest collecting attribute data from multiple platforms or processing the copyright data into a list or displaying the list as is recited in claims 1 and 12. In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), the reference(s), when combined, must teach or suggest all of the claim limitations.

The IBM disclosure is only related to maintaining or collecting software "inventory" information. The IBM disclosure only explains a "collecting" agent that builds a "list" (inventory) of all the software objects found on a LAN. The IBM Disclosure does not make any reference to an intelligent merging/aggregation of "copyright" information as is described and claimed by Applicant. The IBM Disclosure treats each software object found as an independent object and does not correlate the object to other found

objects. There is not teaching in the IBM disclosure related to collecting attribute data as claimed by Applicant.

The IBM Disclosure only relates to “what is installed” and providing a “complete list of all desired software.” The IBM Disclosure makes no reference to collecting copyright information or a list of copyright information. At least this feature is also not disclosed by Nakagawa as previously discussed. Thus, the combination of Nakagawa and the IBM disclosure cannot disclose or suggest each feature of Applicant’s claims.

The Examiner has not demonstrated and it is submitted that there is no motivation to combine Nakagawa with the IBM Disclosure to achieve what is claimed by Applicant, as is required for obviousness under 35 U.S.C. §103(a). In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must also be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings and there must also be a reasonable expectation of success. (See M.P.E.P. §2142).

It is submitted that neither reference provides the requisite suggestion or motivation to modify the references as proposed by the Examiner. The Examiner’s proposition that Applicant’s claims would be obvious as recited in the claims is not supported by the factual contents of Nakagawa and the IBM Disclosure. The Examiner states that the motivation would arise because the System Administrator will be able to balance the workload across the managed systems in a LAN and be able to detect when problems occur. This is not the problem Applicant is addressing. Applicant’s claims are directed to collecting attribute data from multiple platforms, recognizing the copyright data in this attribute data, processing the copyright data into a list and displaying the list of copyright data to a user. There is no motivation to combine Nakagawa with the IBM disclosure to achieve this end.

Nakagawa relates to inspection of copyright information from the HTML documents, i.e. “web pages” not “platforms” as is described and claimed by Applicant. The IBM disclosure relates to an “inventory” of software objects, not acquiring copyright information as is described and claimed by Applicant. Nakagawa is not interested in an “inventory” of copyright information. Nakagawa is only interested in the inspection of the copyright data of HTML documents. In fact, Nakagawa makes no mention of displaying or providing the copyright data to the user and certainly does not teach providing any type of list of “copyright” information. At most, the combination of Nakagawa and the IBM Disclosure would be to provide **an inventory of HTML documents** or even perhaps an inventory of HTML documents for which copyright information has been “inspected.” But neither reference relates to acquiring, displaying or providing a list of copyright information for “**platforms**” as is disclosed and claimed by Applicant. Thus, the legal motivation to combine these references to achieve what is claimed by Applicant, for purposes of 35 U.S.C. §103(a) is simply not present.

Claims 4-11 depend from claim 3 and should be allowable at least by reason of their dependencies.

Claim 6 recites collecting “copyright information” from the at least two platforms. There is no disclosure of “collecting” this information as claimed by Applicant. Nakagawa merely carries out automatic inspection of the copyright. Attributes of the digital data for which the copyright has been inspected are recorded. [0050] This is not the same as what is claimed by Applicant.

Furthermore, claim 7 recites “collecting the license information from the at least two platforms”. The combination of Schwartz, Nakagawa and the IBM Disclosure does not disclose “collecting” license information. Rather, the IBM Disclosure referenced by the Examiner in support only discloses the control of “software” for licensing control. This is not what is claimed by Applicant. Therefore claim 7 is patentable.

With respect to claim 13, neither Schwartz, Nakagawa nor the IBM Disclosure relate to “collecting” copyright data as claimed Applicant. Further, claim 13 recites “a memory for storing the software copyright data collected by the system controller”. Neither Schwartz, Nakagawa nor the IBM Disclosure disclose or suggest “storing” the copyright data as recited in claim 13. Nakagawa only “inspects” the copyright and the IBM Disclosure does not discuss copyright data.

Claim 14 recites that “the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory”. There is no disclosure in either Schwartz, Nakagawa or the IBM disclosure to “storing” copyright data as claimed by Applicant. As noted above, Nakagawa only “inspects” the copyright, and does not collect or store it, and the IBM Disclosure does not discuss copyright data. Thus, claim 14 is patentable.

Claim 15 recites that the system manager collects attribute data from multiple platforms simultaneously. Contrary to the Examiner’s argument, paragraph [0088] of Nakagawa is absolutely silent as to any collection of attribute data from multiple platforms “simultaneously.” Therefore, claim 15 is patentable over the combination of Schwartz, Nakagawa and the IBM Disclosure.

Claim 16 recites that the attribute data collected is attribute data stored on the multiple platforms and is passed to the user interface. Neither Schwartz, Nakagawa nor the IBM Disclosure discloses passing the attribute data to the user interface. Nakagawa does not pass the copyright data on, it only inspects it. Thus, claim 16 is patentable.

Claim 17 recites that “the list is a list of copyright years for the system in its entirety”. The Examiner argues that this limitation is disclosed in paragraph [0050] of Nakagawa. To the contrary, both Nakagawa, and the combination of Schwartz, Nakagawa and the IBM disclosure are completely silent with respect to the generation of a “list” of copyright years. Thus, this limitation is also not taught and claim 17 is patentable.

Claim 18 recites that the attribute data comprises copyright and license data related to software. The “inspection software” (24) of Nakagawa is simply not the same as “attribute data” that comprises “copyright and license data related to software.” The inspection software (24) of Nakagawa is used to inspect the copyright information of the HTML documents [0050]. Applicant’s claim recites collecting copyright and license data related to software, which is not disclosed or suggested by the combination of Schwartz, Nakagawa and the IBM disclosure. Applicant is not reciting **inspection software** in this claim. Thus, claim 18 is patentable.

Claim 19 recites that “the attribute data is a list of copyright years related to each software object of the system”. The combination of Schwartz, Nakagawa and the IBM disclosure fail to make any reference whatsoever related to a “list of copyright years” for each “software object.” FIG. 5 of Nakagawa is merely a diagram for “explaining” digital data attributes [0040] and makes absolutely no reference at all to copyright years.

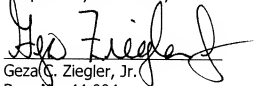
Claim 20 recites “the multiple platforms comprise document processing apparatus”. As discussed previously, the combination of Schwartz, Nakagawa and the IBM disclosure makes no reference to the platforms or document processing apparatus recited and claimed by Applicant.

Claim 21 recites that “the attribute data comprises copyright data for each software object”. Contrary to the Examiner’s statement, nowhere in Nakagawa is there any disclosure at all of obtaining the copyright information **related to** the inspection software (24). Nakagawa uses the inspection software (24) to inspect the HTML documents. Nakagawa is quite obviously **not** collecting the attributes of the inspection software (24) and the inspection software (24) bears no relationship to what is claimed by Applicant in claim 21. Thus, the combination of Schwartz, Nakagawa and the IBM disclosure cannot teach this particular claim limitation.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza S. Ziegler, Jr.
Reg. No. 44,004
Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800 Ext. 134
Customer No.: 2512

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Date

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Shannon D'Amico

Name